

Mushroom Express Brief Chronology

EPA Emergency Response Section (ERS) assistance efforts to the Rincon Band of Luiseno Indians concerning the Mushroom Express Property, Rincon Reservation, San Diego County, CA.

7/25/05: Inspection Report prepared by Elizabeth Janes, EPA Ground Water Office and a letter to the Mushroom Express property owner, Marvin Donius, prepared by David Albright, Manager EPA Region 9 Ground Water Office. EPA Region 9 Ground Water Office accompanied the Rincon Tribal Environmental Department on an inspection to identify any activities on-site that could pose threat to the groundwater quality.

The letters itemized potential discharge areas including septic system(s) between the south building and Valley center Road that receive sanitary wastewater from the site and an on-site drinking water well. EPA requested receipt of the County issued septic system permit, if available, and provided specific requirements and recommendations including registration of injection wells on the Inventory of Injection Wells (40 CFR part 144.26) and septic system pump out by a licensed sewage pumper with Rincon officials in attendance to document the volume and construction design. EPA further recommended that the site should be reinspected for compliance with applicable housing and hazardous materials regulations.

5/18/07: EPA RCRA hazardous waste compliance inspection conducted by Cameron McDonald, EPA RCRA accompanied by a representative of the Rincon Environmental Department. A draft Notice of Violation documenting potential RCRA and non-RCRA violations generally pertaining to waste oil storage practices was never mailed to property owner Donius as EPA did not receive return correspondence of concurrence from the Tribe.

11/9/07: EPA OSC Tom Dunkelman and Superfund Technical Assessment and Response Team (START) contactors conducted a brief inspection of the property and identified several potential hazardous substance sources including small volumes of drums, tanks and cylinders.

11/14/07: OSC Dunkelman contacted property owner Donius. Mr. Donius indicated that it was his intention to conduct on-site cleanup actions. In a meeting with Rincon Environmental Director Kristie Orosco, OSCs Marty Powell and Dunkelman related to Ms. Orosco that there was no need for a CERCLA Order or Action Memorandum but the site should be addressed as a voluntary cleanup with appropriate Tribal oversight.

12/21/08: In an e-mail from Ms. Orosco addressed to Tina Williams, EPA, Ms. Orosco requested that EPA work with the tribe to help compel the landowner to perform site remediation.

1/11/08: OSC Craig Benson participated in a meeting at the Rincon Administrative Offices to discuss the Mushroom Express property. Attendees included OSC Benson, START, Ms. Orosco, Eric Mendoza, Tribal Environmental Compliance Coordinator,

Dick Watenpaugh, Director of Tribal Administration and Alan Sweeney, Tribal Development and Legal Affairs Director. The Mushroom Express parcel was confirmed to be privately owned fee land owned by a non-tribal member (not in trust).

At 0900 hours, the group met with property owner Donius on-site. Potential hazardous materials sources noted by OSC Dunkelman on 11/9/07 (drums, tanks, cylinders) were evaluated and found to be empty or destroyed by the fire. Four 55-gallon drums with content were sampled and field screened by START. Two drums contained water and two drums located in the drum storage pad contained residual oil/water. The drum pad was associated with truck maintenance and was the location where waste oil was stored prior to transportation off-site.

Tribal representatives expressed concern about the possibility of oil impacted soil in the vicinity of the waste oil storage pad and potential threats to groundwater quality from a fire impacted drinking water well and undocumented septic/sump systems. In order to address these concerns, OSC Benson agreed to work with the Tribe to compel Mr. Donius to provide for site characterization through a targeted soil/groundwater sampling effort.

Property owner Donius informed OSC Benson that he did have the financial resources to address the assessment and any resultant hazardous substances cleanup efforts. To render the site safe for environmental sampling, the physical hazards associated with the partially collapsed building and removal of recyclable metals and concrete were to be addressed first. In separate discussions with Tribal Administration and Mr. Donius, there was uncertainty as to whether the septic system was permitted with any State/local authority or whether/how building demolition permitting would be accomplished. Mr. Donius knew of no permits associated with his property.

2/8/08: In response to an e-mail inquiry from Elizabeth Janes, EPA Ground Water Office, the San Marcos Department of Planning and Land Use (DPLU – San Diego County), stated that they did not have jurisdiction on the Mushroom Express parcel. This was re-iterated in an e-mail to OSC Benson on 2/12/08 and was consistent with verbal information provided by Nick Vent of the San Diego County Health Hazardous Materials Division. San Diego County had conducted a previous compliance inspection in the past, but inspections were discontinued at an unspecified time.

No applicable or relevant and appropriate requirements (ARARs) were identified. This information effectively concluded the National Contingency Plan required discovery of ARARs.

2/13/08: Internal EPA conference call consultation. Attendees included: OSC Benson, Jean Gamache (Tribal Program Office Supervisor), Hillary Hecht (Tribal Program Office Project Manager), Cameron McDonald (RCRA), Caleb Shaffer, (EPA) and Joann Asami, (ORC).

2/15/08: OSC Benson received a call from Neil Langerman with Advanced Chemical Safety, Inc (ACS). Mr. Langerman explained that he was retained by George McGill, an attorney representing Rincon Mushroom Corporation of America, to prepare a draft remediation workplan for the Mushroom Express parcel. Rincon Mushroom sold the property to Marvin Donius and maintains an interest as a holder of a security interest (beneficiary under first deed of trust of trust).

2/21/08: ACS draft remediation workplan submitted to OSC Benson, Ms. Orosco and Mr. Watenpugh. The plan was well prepared, but to ensure all Tribal concerns were met, a 2/28/08 site visit was scheduled with the ACS Project Manager, Ms. Orosco, and Mr. Donius to go over the plan section by section to ready for a final version.

2/28/08: Draft remediation workplan review site visit was attended by OSC Benson, Neil Langerman, ACS, START contractors, Mr. Donius and Mr. Mendoza (in place of Ms. Orosco). Detailed sampling points across the site were agreed to by Mr. Mendoza on behalf of the Tribe, including the drinking water well, possible sump areas, soil areas in proximity to former fuel storage areas including vehicle parking areas, etc. Non-sampling activities including the continued removal of scrap metal, concrete rubble, vehicles and management of physical hazards (i.e., falling walls) were also agreed to.

3/12/08: Mr. Donius informed OSC Benson that a Conflict-of-Interest issue could not be resolved between himself and Mr. McGill and instead of a revised ACS workplan he had retained a new consultant to prepare a sampling and analysis plan. The new consultant, Marc Boogay and Associates had prepared a Phase I Environmental Site Assessment for Mushroom Express in 2007 (pre-fire).

3/25/08 – 5/12/08: Several versions of a draft sampling plan were reviewed and commented on leading to the final version on 5/12/08. Most of the comments were quality assurance/analytical method clarifications and did not alter the February 28, 2008 Tribe/EPA agreed upon sampling points. The Rincon Tribe did not provide any other verbal or written comment to any version.

2/28/08 – 5/14/08: Since the previous EPA site walk on 2/28/08:

- A total of 35 loads of scrap metal have been taken to Ecology Scrap and Steel in Oceanside, CA.
- All concrete block walls have been knocked down. Concrete rubble is being removed for use as road base in Valley Center.
- 4 drums with residual oil have been pumped by Ashbury Environmental (4/14/08). Manifest copy received by OSC Benson.
- The drinking water well has been repaired and is ready for sampling.

6/14/08: Sampling plan implementation performed by Marc Boogay and Associates. START Project Manager Mike Schwennesen on-scene to assist with oversight and documentation. Sample collection points included were as documented in the plan and approved by EPA/Tribal EPA (2/28/08). These included soil areas of (suspected)

released petroleum hydrocarbons, burn ash, and groundwater from the on-site production well. The concrete stormwater collection sump (no drainage) running east to west between the footprint of the two former structures was filled with gravel and concrete (no liquids).

7/14/08 – 7/15/08: Electronic laboratory data packages for the 6/14/08 samples were submitted to OSC Benson and, in turn, submitted to Rincon EPA staff and START Schwennesen for review. Final reporting from Marc Boogay and Associates and full data evaluation is pending.

7/15/08: START Schwennesen conducted a drive-by inspection of Mushroom Express and reported no unexpected change in site conditions since the 6/14/08 sampling effort.

7/16/08: Internal EPA conference call consultation. Attendees included: OSC Benson, Jean Gamache, Hillary Hecht, Steve Calanog (ERS Chief), Andrew Helmlinger (ORC) and Danita Yocom (ORC). EPA will continue to support the tribe under its CERCLA sec. 104(b) investigation, monitoring and coordination authority.

7/22/08: On-site meeting scheduled for 7/29/08.

7/29/08: OSC Benson on-site with Mr. Donius and START Schwennesen. A Tribal EPA representative was not on-site. OSC Benson visited the Tribal Administration offices and provide a site activities update to Joanna Welch, Tribal EPA Natural Resource Coordinator. Later in the morning Ms. Orosco contacted OSC Benson and said she was unable to visit the site at the time. She also stated she did not receive the electronic laboratory data submission on 7/15/08. In response, OSC Benson returned to the Tribal Offices and prepared a CD of all data for Ms. Welch to hand deliver to Ms. Orosco.

Mr. Donius was informed of his need to contract a removal services firm to remove the identified burn debris and hydrocarbon contaminated soil areas (identified from the preliminary assessment sampling data) and to plan for the characterization of the septic system(s). START also collected additional samples of these areas to help define the lateral extent of the burn debris.

8/6/08: Mr. Donius received a removal services firm on-site (Enviroserv) for the purpose of scoping and bidding the required burn debris and hydrocarbon contaminated soil areas.

Internal EPA phone conference: Attendees included: OSC Benson, Jean Gamache, Hillary Hecht, Steve Calanog, Elizabeth Jane, Clancy Tenley and Danita Yocom .

8/8/08: START Schwennesen utilized an XRF instrument on-site to further refine burn ash boundaries.

8/11/08: Internal EPA phone conference: Attendees included: OSC Benson, Jean Gamache, Hillary Hecht, OSC Rich Martyn, Clancy Tenley, Cameron McDonald and Deputy RA Laura Yoshii.

EPA Emergency Response Section assistance efforts were transferred from OSC Benson to OSC Martyn.

8/13/08: OSC Martyn along with numerous EPA programatic staff meet with members of the Rincon Tribal Council at the EPA in San Francisco to discuss the jurisdiction of Tribal Authority over the property owned by Mr. Donius. Mr. Dick Watenpaugh, Director of Tribal Administration, was appointed a Tribal point of contact for any further EPA correspondence.

8/14/08: Enviroserv Workplan was submitted for review and approval for the last phase of ERS removal involvement/oversight. EPA approved the Work plan and copies were sent to Dick Watenpaugh for their review and approval. Work was schedule for 08/22/08

8/22/08: Removal of remaining identified TPH contaminated soils and burn ash. In total 47 tons of contaminated ash, soil and debris were removed in two trucks and shipped to Western Environmental, Inc. of Mecca, California. Three 55 gallon drums containing ash and contaminated debris were shipped to U.S. Ecology in Beatty, Nevada.

9/9/08: OSC Martyn prepared and distributed Pollution Report 5 and Final.

9/11/08: Internal EPA phone conference: Attendees included: OSC Benson, Jean Gamache, Hillary Hecht, OSC Rich Martyn, and Elizabeth Janes. EPA ERS activities are concluded. Continued coordination with the Rincon Tribe will be managed by the EPA Ground Water and Tribal Program Offices.